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10/824,122

04/14/2004

Gregory Ashton

9523

6454

27752 7590 08/13/2007

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EXAMINER

HAND, MELANIE JO

ART UNIT

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/824,122
Filing Date: April 14, 2004
Appellant(s): ASHTON ET AL.

MAILED
AUG 13 2007
GROUP 3700

Charles R. Ware
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 21, 2007 appealing from the Office action mailed October 16, 2006.

Art Unit: 3761

(1) Real Party in Interest

The real party in interest is The Procter & Gamble Company.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Application Serial No. 10/824,121 is currently pending on appeal to the Board of Patent Appeals and Interferences.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,993,433	ST LOUIS et al	11-1999
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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-13 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by St. Louis et al. (US 5,993,433; herein 'Louis').

Regarding claims 1-2, 4, 6-7, and 15-16 Louis discloses a unitary disposable pre-fastened absorbent article such as adult incontinence garments or training pants (column 3, lines 26-38) comprising: an absorbent body structure 32 sandwiched between liquid permeable top sheet layer 28 and impermeable back sheet layer 30 (column 3, lines 52-56 and column 8, lines 41-46); and an elastically contractible dual cuff 19 having proximate end/area near edge 141 and distal end/area near edge 140 (column 4, lines 60-63, figures 1 and 6), said dual cuff 19 being joined to the article via single leg gusset attachment/cuff bond 172 (column 18, line 66-column 19, line 11 and figure 6), said first cuff being on the left side disposed between proximate end 141 and cuff bond 172, said second cuff being disposed between the cuff bond 172 and distal end 140 (figure 6), said dual cuff 19 being constructed of a continuous cuff material 174 and enclosed by the cuff bond 172 (column 4, lines 60-63 and figure 6), wherein the distal end is formed by folding the cuff material 174 (column 5, lines 40-42 and figure 6); wherein first cuff envelopes at least one first elastic 68a (column 5, lines 42-46) and wherein the at least one first elastic 68, 68a is secured to the first cuff near the first and second ends (figure

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6); wherein second cuff envelops at least one second elastic 138 (column 5, lines 7-12), wherein the second elastics 138 are secured to the second cuff near the first and second ends (figure 6); wherein the first and second cuffs are elasticized upright barrier cuffs (figures 1, 4 and 6).

Regarding claim 3 Louis discloses first cuff elastics 68, 68a associated with second cuff via an adhesive (column 16, lines 55-64)

Regarding claim 5 Louis discloses second cuff elastics 138 are associated with the first cuff by securement via an adhesive strip 174 (column 16, lines 10-16 and figure 6).

Regarding claims 8-12 Louis discloses gusset-flap members 19 having continuous cuff material made of spunbond/lesser water-permeable-meltblown/more water permeable laminates and other conventional materials such as polymer films (column 7, lines 55-67).

Regarding claims 13 and 17 Louis discloses first and second cuffs as discussed above with respect to claim 1 above. Louis further discloses the first cuff stands taller than the second cuff (figure 6).

(10) Response to Argument

Applicant's arguments filed March 21, 2007 have been fully considered but they are not persuasive.

With respect to applicant's arguments regarding the rejection of claims 1-13 and 15-17: Applicant argues that St. Louis does not teach a cuff bond and cites the specification of the instant application. Applicant is encouraged to reread this citation, as this describes a bond which is located at a distal end of a cuff so as to envelop elastic members, whereas the cuff bond claimed is clearly not intended to be referring to the same bond described in said citation. This response is also intended to address the lengthy arguments beginning on page 5 and

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appearing to terminate on page 7 regarding whether the guest member taught by St. Louis anticipates the relevant limitation of independent claims 1 and 15.

As to applicant's argument that St. Louis does not teach first and second elastic members secured to a first cuff at their respective first and second ends, In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the first and second elastic members are not secured to a first cuff at their respective first and second ends) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims set forth securement of said first and second elastic members near their respective first and second ends. It would be clear to one of ordinary skill in the art upon reading the St. Louis reference that the elastics are not secured at their absolute physical end, thus the teaching of St. Louis encompasses attachment near the respective first and second ends, and thus the claim limitation is still anticipated by St. Louis. Further, it is unclear what applicant is referring to when arguing that the word "end" when referring to the end of an elastic member was given an unreasonably broad interpretation. The claim is straightforward and consistent with the widely understood definition of "end", as is the relevant teaching of St. Louis. As to applicant's argument regarding the use of the elastic as a drawstring in a cuff, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



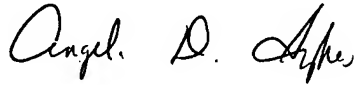
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MAR 21 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/824,122
Inventor(s) : Gregory Ashton, et al.
Filed : April 14, 2004
Art Unit : 3761
Examiner : Laura C. Hill
Docket No. : 9523
Confirmation No. : 6454
Customer No. : 27752
Title : Dual Cuff for a Unitary Disposable Absorbent Article Made
of a Continuous Cuff Material

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APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This Brief is filed pursuant to the appeal from the decision communicated in the Final Office Action mailed on October 16, 2006. A timely Notice of Appeal was filed on January 12, 2007. This Brief is filed with a one-month extension, per the attached petition and the required fee.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 1-13 and 15-17 are pending. Claims 1-13 and 15-17 stand rejected. Claims 1-13 and 15-17 are appealed. A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

STATUS OF AMENDMENTS

The Applicant has not filed an amendment subsequent to the Final Office Action.

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SUMMARY OF CLAIMED SUBJECT MATTER

Independent claims 1 and 15 each claim a number of common elements, which are described together below. The differing elements are pointed out at the end of this Summary.

Independent claims 1 and 15 each claim a unitary disposable absorbent article (#20 in Fig. 1, and page 4, lines 20-22, 9-12, and 1-3) comprising: an absorbent core (#28 in Figs. 1, 2, 5, 10A, 10B, and page 6, line 26 – page 7, line 2) having a garment surface (page 7, lines 24-25) and a body surface (page 2, lines 1-2); a liquid permeable topsheet (#28 in Figs. 1, 2, 5, 10A, 10B, and page 5, lines 33-34) positioned adjacent said body surface of said absorbent core; and a liquid impermeable backsheet (#26 in Figs. 2, 5, 10A, 10B, and page 7, line 24 – page 7, line 22) positioned adjacent said garment surface of said absorbent core.

The unitary disposable absorbent article also comprises an elastically contractible dual cuff (#30 in Figs. 2, 4B, and 5, #130 in Figs. 6-9, and page 10, line 18 – page 11, line 11, page 15, line 33 – page 16, line 3) having a proximate end (#35 in Figs. 2, 4B and 5, and page 10, lines 18-19) and a distal end (#39 in Figs. 2, 4B and 5, and page 10, line 19), said dual cuff being joined to said article by a cuff bond (#70 in Figs. 2, 4B, 5, 10A, and 10B, and page 10, lines 25-28, page 11, lines 12-22), said dual cuff having a first cuff (#40 in Figs. 2, 4B, and 5, and #140 in Figs. 6-9, and page 10, lines 19-23, page 15, lines 19-24 and 33, page 16, line 17) and a second cuff (#50 in Figs. 2, 4B, and 5, and #140 in Figs. 6-9, and page 10, lines 19-23, page 15, line 33 – page 16, line 1), said first cuff being disposed between said proximate end and said cuff bond, said second cuff being disposed between said cuff bond and said distal end, said dual cuff being constructed of a continuous cuff material (#33 in Figs. 2, 4B, and 5, page 10, lines 20-21, page 10, line 23 – page 11, line 9) and enclosed by said cuff bond (Figs. 2 and 4B).

In the unitary disposable absorbent article, said distal end is formed by said cuff material being folded and said proximate end is formed by said cuff material being folded. (Fig. 4A.) Said first cuff envelopes at least one first elastic (#42, #44 in Figs. 1-2, 4B, 5, and 7-9, and page 5, lines 11-12, page 10, lines 21-22, 25-28, page 11, line 23 – page 12, line 15, page 16, lines 4-13), wherein said first elastic has a first and second end

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(Fig. 1), wherein said first elastic is secured to said first cuff near said first and second ends. Said second cuff envelopes at least one second elastic (#52, #54 in Figs. 1-2, 4B, 5, and 7-9, and page 5, lines 11-12, page 10, lines 22-23, 25-28, page 11, line 23 – page 12, line 15, page 16, lines 4-13), wherein said second elastic has a first and second end (Fig. 1), wherein said second elastic is secured to said second cuff near said first and second ends.

In addition to the above-described common elements, independent claim 1 also claims that said first and second cuffs are barrier cuffs (page 5, lines 9-12, page 11, lines 21-22).

In addition to the above-described common elements, independent claim 15 also claims that said dual cuff is bonded to said article by a single bond. (Page 10, lines 25-28, and page 11, lines 9-11.)

The Applicant argues independent claim 1, with its dependent claims 2-13, and independent claim 15, with its dependent claims 16-17, all together.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-13 and 15-17 are unpatentable under 35 U.S.C. § 102(b) over St. Louis, et al. (US Patent No. 5,993,433).

ARGUMENTS

Rejection of Claims 1-13 and 15-17 under 35 U.S.C. § 102(b) over St. Louis

The rejections of claims 1-13 and 15-17 under 35 U.S.C. § 102(b) over St. Louis are improper because the St. Louis reference does not describe each and every claim limitation recited in each of the Applicant's independent claims 1 and 15.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The Applicant's independent claims 1 and 15 each recite in part a "unitary disposable absorbent article" including a "dual cuff" that is "enclosed by said cuff bond."

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Figure 2 of the application illustrates a dual cuff 30 with a cuff bond 70. The Applicant's specification states:

FIG. 2 is a fragmentary sectional view taken along section line 2-2 of FIG. 1 and depicts the diaper construction in the crotch region 37 of the diaper 20 as it is shaped before being applied to the wearer (i.e., the diaper is subjected to elastic contraction). Dual cuff 30 has a proximate end 35, distal end 39 and regions therebetween identified as first cuff 40 and second cuff 50. Dual cuff 30 may be constructed from a continuous cuff material 33 that substantially envelopes the elastics of first cuff 40 and second cuff 50. More specifically, first cuff 40 has at least one elastic (although two elastics 42, 44 are shown) and second cuff 50 also has at least one elastic (although two elastics 52, 54 are shown) that are enveloped within cuff material 33. In this way, only a continuous cuff material 33 is used and manipulated during the construction of dual cuff 30, thus making easier the manufacturing of said dual cuff. Moreover, cuff material 33 need only be enclosed/bonded at a single location, as exemplified by cuff bond 70, in order to substantially envelope elastics 42, 44, 52, 54, thus providing improved barrier properties by minimizing the number of potential leakable locations (e.g., bonding locations).

(Page 10, lines 16-28, underlining added.)

The Final Office Action cited a gusset-flap member 19 and a gusset attachment 172 of the St. Louis reference against the dual cuff and the cuff bond of the Applicant's independent claims 1 and 15. Specifically, the Final Office Action referred to "said dual cuff 19 being constructed of a continuous cuff material 174 and enclosed by the cuff bond 172 (column 4, lines 60-63 and figure 6)." (Page 4, lines 4-6.) The Final Office Action further stated:

In response to Applicant's arguments that the St. Louis reference does not appear to disclose that the gusset attachment 172 *encloses* the gusset-flap member and thus there is no recitation that the dual cuff is enclosed by the cuff bond as recited in claim 1 (see Remarks page 8), Examiner maintains that the gusset attachment 172 encloses gusset-flap member 19 since each containment flap section 144 is integrally formed with a corresponding one of the leg gusset sections 142 and is positioned relatively inboard therefrom to provide gusset-flap member 19 (column 4, lines 53-56, figure 6). Moreover it is noted that Examiner has correctly interpreted the term "enclosed" consistent with what is defined in the Specification (see page 10, lines 25-28) to be interchangeable and equivalent to the term "bonded." Thus since the gusset attachment/cuff bond 172 is bonded and

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attached by leg gusset sections 142 that comprise the gusset-flap member 19, the "enclosed" recitation of claim 1 has been met.

(Page 2, lines 4-16, italics original, underlining added.) From the Applicant's review, the Final Office Action appears to take the position that the phrase "cuff material 33 need only be enclosed/bonded at a single location" from the Applicant's specification (page 10, lines 25-26) defines enclosed as equivalent to bonded.

The words of a claim must be given their plain meaning unless the applicant has provided a clear definition in the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). The Applicant asserts that the use of "enclosed/bonded" in the specification does not clearly define the term "enclosed" as equivalent with the term "bonded."

The symbol / is called a diagonal. The dictionary defines a diagonal as "the symbol / used especially to denote 'or' (as in *and/or*), 'and or' (as in *straggler/deserter form*), 'per' (as in *feet/second*), 'in' or 'of' (as in U.S. Embassy/Paris), 'shilling' (as in *6/8d*), or 'for' (as in *2/39*) to indicate division (as in *birth/death ratio*) or the end of a line of verse or of a display line when quoted in running text, to separate terms of quantity (as in *5 tons/7 cwts/57 lbs*) or the figures of a date (as in *1/9/56*), or to enclose phonemic rather than phonetic symbols – called also *oblique*, *slash*, *comma*, *separatrix*, *slant*, *slash*, *slash mark*, *solidus*, *virgule*." (WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY (unabridged), page 622 (2002). The dictionary definition of the symbol / does not include a use denoting equivalence, as suggested by the Final Office Action. Thus, the dictionary indicates that the use of the / symbol in "enclosed/bonded" does not clearly define the term "enclosed" to be equivalent with the term "bonded."

Instead, the Applicant submits that the use of the / symbol in "enclosed/bonded" is intended to denote "and or" as in "enclosed and or bonded." The Applicant's specification supports this meaning as it describes bonding functions. The specification describes a first bonding function: connecting a dual cuff. "In yet another example, it may be desirable that dual cuff 30 be connected to diaper 20 by way of a single bond (e.g., adhesive, ultrasonic; e.g., cuff bond 70 to topsheet 24)." (Page 11, lines 9-11.) "Cuff bond 70 may also join dual cuff 30 to topsheet 24." (Page 11, line 15.) The

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specification also describes a second bonding function: enclosing a dual cuff. "Dual cuff 30 is constructed from a continuous cuff material 33 which is enclosed by cuff bond 70." (Page 14, lines 5-6.) Since only one of these two bonding functions involves enclosing a dual cuff, the term "bonded" cannot be equivalent to "enclosed." Thus, the specification indicates that the use of the / symbol in "enclosed/bonded" does not clearly define the term "enclosed" to be equivalent with the term "bonded."

Further, the Applicant asserts that the remainder of the specification also does not clearly define the term "enclosed." Since the specification does not clearly define "enclosed," the term must be given its plain meaning consistent with the specification. As described above, the Applicant's Figure 2 illustrates an embodiment wherein cuff material 33 is enclosed by a cuff bond 70. In the Applicant's Figure 2, the cuff bond 70 completely closes off the cuff material 33. With respect to Figure 4B, the Applicant's specification states that "Dual cuff 30 is constructed from a continuous cuff material 33 which is enclosed by cuff bond 70." (Page 14, lines 5-6.) In the Applicant's Figure 4B, the cuff bond 70 also completely closes off the cuff material 33. Thus, based on the Applicant's specification, the Applicant submits that the plain meaning of the term "enclosed" is completely closed off.

The Applicant's independent claim 1 recites in part a "dual cuff" that is "enclosed by said cuff bond." Since the claim term "enclosed" means completely closed off, the Applicant's independent claim 1 describes an embodiment wherein a dual cuff is completely closed off by a cuff bond. The Applicant submits that the St. Louis reference does not describe an embodiment wherein a dual cuff is completely closed off by a cuff bond, as described in the Applicant's independent claim 1. The St. Louis reference states that the "gusset-flap 19 can be connected to at least one of the topsheet and backsheet layers with a gusset attachment 172." (Col. 6, lines 8-10.) However, from the Applicant's review, the specification of the St. Louis reference does not appear to describe a gusset attachment completely closed off by a gusset-flap, as described in each of the Applicant's independent claims 1 and 15.

"The identical invention must be shown in as complete detail as is contained in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920

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(Fed. Cir. 1989). Figures 4, 5, and 6 of the St. Louis reference illustrate various embodiments of gusset attachments 172 for connecting gusset flaps 19. However, from the Applicant's review, none of these figures appear to definitively illustrate a gusset attachment 172 completely closed off by a gusset-flap member 19. Instead, in the cross-sectional views of these figures, the gusset attachments 172 are set off from the gusset-flap members 19 and their connected configuration is unclear. Thus, the Applicant submits that the St. Louis reference does not describe an embodiment wherein a dual cuff is completely closed off by a cuff bond, in as complete detail as described in each of the Applicant's independent claims 1 and 15.

Therefore, the St. Louis reference, does not describe each and every element as set forth in each of the Applicant's independent claims 1 and 15. For this reason, the Applicant respectfully submits that the Final Office Action has not established anticipation of the invention of the Applicant's claim 1 or 15. As a result, the Applicant respectfully requests that the Board reverse the 102(b) rejections for independent claims 1 and 15 as well as for dependent claims 2-13 and 16-17, which depend therefrom. The Applicant respectfully requests allowance of claims 1-13 and 15-17.

The Applicant's independent claims 1 and 15 also each recite in part a "unitary disposable absorbent article" including a "first elastic, wherein said first elastic has a first and second end, wherein said first elastic is secured to said first cuff near said first and second ends" and a "second elastic, wherein said second elastic has a first and second end, wherein said second elastic is secured to said first cuff near said first and second ends."

Figure 1 of the application illustrates a disposable diaper 20 with elastics 42, 44, 52, and 54. In Figure 1, each of these elastics is illustrated as an elongated structure of a definite length with a first end and a second end. Figure 2 of the application illustrates a cross-sectional view of a portion of the disposable diaper 20, including the elastics 42, 44, 52, and 54. In Figure 2, the cross-section of each of these elastics is illustrated as having an overall circular shape. Thus, each of the elastics 42, 44, 52, and 54, is illustrated in the Applicant's figures as having an overall cylindrical shape.

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The Applicant's specification states that "Elastics 42, 44, 52, 54, having a first and second end, may be secured to their respective cuff only near their ends or along their entire length." (Page 11, lines 26-27.) The Applicant's specification also states that "Typically, said barrier cuff envelopes/contains at least one elastic that is connected primarily at its opposing ends to the diaper (e.g., drawstring technique for better fit)." (Page 5, lines 11-12.) Similar descriptions can also be found in the Application's specification on page 2, at lines 8-9 and 11-12, and on page 16 at lines 11-12.

The Final Office Action cited elastomeric members 68a and 138 of the St. Louis reference against the secured elastics of the Applicant's independent claim 1. Specifically, the Final Office Action stated that "at least one first elastic 68, 68a is secured to the first cuff near the first and second ends (figure 6)" (page 4, lines 8-9) and that "the second elastics 138 are secured to the second cuff near the first and second ends (figure 6)" (page 4, lines 10-12). The Final Office Action further stated:

In response to Applicant's arguments that the St. Louis reference does not appear to disclose that the elastomeric members 68a or 138 are secured *near their first and second ends* as recited in claims 1 and 15 (see Remarks page 9), Examiner notes that the "first and second ends" have not been defined anywhere by Applicant to be limited to the distal and proximal ends or proximal and distal ends, respectively. Thus Examiner maintains that the first elastic 68, 68a is secured to the first cuff at its first and second distal and proximal ends and the second elastic 138 is also secured to first cuff at its first and second distal and proximal ends (see page 4 of the Office action dated 15 May 2006 and also St. Louis figure 6) [Also please note that the "first cuff" has been interpreted to be the upstanding portion between elements 141 and 172 and the "second cuff" has interpreted to be the parallel portion lying between elements 172 and 140.]

(Page 2, line 17 – page 3, line 6, italics original, underlining added.) Figure 6 of the St. Louis reference illustrates circular cross-sections of elastomeric members 68, 68a, and 138, which contact cuffs at various points. From the Applicant's review, the Final Office Action appears to take the positions that: 1) the points at which the circular cross-sections contact the cuffs are "ends" and 2) the elastomeric members are "secured" at those "ends."

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During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). The Applicant asserts that the Final Office Action gave an unreasonably broad interpretation when it cited two points of contact of circular cross-sections of elastomeric members of the St. Louis reference against the "first and second ends" of elastics of the Applicant's independent claim 1. By definition, a circular shape does not have an "end." Accordingly, a circular cross-section of an elastomeric member also does not have an "end." Further, the interpretation offered by the Final Office Action does not allow an elastomeric member to be used as a "drawstring" in a cuff, as described for the elastics in the Applicant's specification. Thus, the Applicant submits that citing two points of contact of the circular cross-sections of the elastomeric members of the St. Louis reference against the "first and second ends" of elastics of the Applicant's independent claim 1 requires an unreasonably broad interpretation.

Therefore, the St. Louis reference, does not describe each and every element as set forth in each of the Applicant's independent claims 1 and 15. For this reason, the Applicant respectfully submits that the Final Office Action has not established anticipation of the invention of the Applicant's claim 1 or 15. As a result, the Applicant respectfully requests that the Board reverse the 102(b) rejections for independent claims 1 and 15 as well as for dependent claims 2-13 and 16-17, which depend therefrom. The Applicant respectfully requests allowance of claims 1-13 and 15-17.

Even if the points of contact of the circular cross-section of the elastomeric members of the St. Louis reference could be characterized as "ends," the Applicant submits that the St. Louis reference does not describe an embodiment wherein the elastomeric members would be "secured" near those ends as recited in part in each of the Applicant's independent claims 1 and 15. The St. Louis reference states that "The elastic members may be affixed to the appointed diaper components in any of several ways which are known in the art." (Col. 10, lines 43-45.) However, from the Applicant's review, neither the specification nor the figures of the St. Louis reference appear to describe any particular location for affixing the elastomeric members 68, 68a, and 138.

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Thus, the St. Louis reference does not describe an embodiment wherein an elastic member is secured near its "first and second ends," as recited in part in each of the Applicant's independent claims 1 and 15.

Therefore, the St. Louis reference, does not describe each and every element as set forth in each of the Applicant's independent claims 1 and 15. For this reason, the Applicant respectfully submits that the Final Office Action has not established anticipation of the invention of the Applicant's claim 1 or 15. As a result, the Applicant respectfully requests that the Board reverse the 102(b) rejections for independent claims 1 and 15 as well as for dependent claims 2-13 and 16-17, which depend therefrom. The Applicant respectfully requests allowance of claims 1-13 and 15-17.

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SUMMARY

In view of all of the above, it is respectfully submitted that claims 1-13 and 15-17 have been improperly rejected under 35 U.S.C. § 102(b) in light of the reasoning and analysis given in the Final Office Action. In light of all of the analysis and discussion provided above, Applicant respectfully requests that the Honorable Board of Patent Appeals and Interferences reverse the rejections of claims 1-13 and 15-17 and remand the application to the Examiner with instructions that these claims be allowed over the cited art.

Respectfully submitted,



Charles R. Ware
Registration No. 54,881
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Date: March 21, 2007

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CLAIMS APPENDIX

1. (Original) A unitary disposable absorbent article comprising:
an absorbent core having a garment surface and a body surface;
a liquid permeable topsheet positioned adjacent said body surface of said absorbent core;
a liquid impermeable backsheet positioned adjacent said garment surface of said absorbent core; and
an elastically contractible dual cuff having a proximate end and a distal end, said dual cuff being joined to said article by a cuff bond, said dual cuff having a first cuff and a second cuff, said first cuff being disposed between said proximate end and said cuff bond, said second cuff being disposed between said cuff bond and said distal end, said dual cuff being constructed of a continuous cuff material and enclosed by said cuff bond,
wherein said distal end is formed by said cuff material being folded, wherein said proximate end is formed by said cuff material being folded;
wherein said first cuff envelopes at least one first elastic, wherein said first elastic has a first and second end, wherein said first elastic is secured to said first cuff near said first and second ends;
wherein said second cuff envelopes at least one second elastic, wherein said second elastic has a first and second end, wherein said second elastic is secured to said second cuff near said first and second ends;
wherein said first and second cuffs are barrier cuffs.
2. (Original) The absorbent article of claim 1 wherein said first cuff envelopes at least one elastic.
3. (Original) The absorbent article of claim 2 wherein said elastic is operatively associated with said first cuff by securing it with an elastic attachment element.
4. (Original) The absorbent article of claim 1 wherein said second cuff envelopes at least one elastic.

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5. (Original) The absorbent article of claim 4 wherein said elastic is operatively associated with said second cuff by securing it with an elastic attachment element.
6. (Original) The absorbent article of claim 1 wherein said article is a disposable diaper.
7. (Original) The absorbent article of claim 6 wherein said disposable diaper is a prefastened diaper.
8. (Original) The absorbent article of claim 1 wherein said continuous cuff material is constructed of a lesser-water-permeable material with a more-water-permeable material placed inside said lesser-water-permeable material.
9. (Original) The absorbent article of claim 8 wherein said lesser-water-permeable material is a spunbound material.
10. (Original) The absorbent article of claim 8 wherein said more-water-permeable material is a meltblown material.
11. (Original) The absorbent article of claim 1 wherein said continuous cuff material is constructed of a spunbound-meltblown laminate.
12. (Original) The absorbent article of claim 1 wherein said continuous cuff material is constructed of a series of various materials.
13. (Previously Presented) The absorbent article of claim 17 wherein said first cuff stands taller than said second cuff.
14. (Canceled)

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15. (Original) A unitary disposable absorbent article comprising:
an absorbent core having a garment surface and a body surface;
a liquid permeable topsheet positioned adjacent said body surface of said absorbent core;
a liquid impermeable backsheet positioned adjacent said garment surface of said absorbent core; and
an elastically contractible dual cuff having a proximate end and a distal end, said dual cuff being joined to said article by a cuff bond, said dual cuff having a first cuff and a second cuff, said first cuff being disposed between said proximate end and said cuff bond, said second cuff being disposed between said cuff bond and said distal end, said dual cuff being constructed of a continuous cuff material and enclosed by said cuff bond,
wherein said distal end is formed by said cuff material being folded, wherein said proximate end is formed by said cuff material being folded;
wherein said first cuff envelopes at least one first elastic, wherein said first elastic has a first and second end, wherein said first elastic is secured to said first cuff near said first and second ends;
wherein said second cuff envelopes at least one second elastic, wherein said second elastic has a first and second end, wherein said second elastic is secured to said second cuff near said first and second ends;
wherein said dual cuff is bonded to said article by a single bond.
16. (Original) The absorbent article of claim 15 wherein said single bond is said cuff bond.
17. (Previously Presented) The absorbent article of claim 1 wherein one of said first and second cuffs stands taller than the other cuff.